

REPORT OF THE COMMITTEE ON TRANSPORTATION AND PLANNING

Voting Members:

Gary H. Okino, Chair; Donovan Dela Cruz, Vice-Chair
Nestor Garcia, Rod Tam

Committee Meeting Held
April 9, 2009

Honorable Todd K. Apo
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Transportation and Planning, which considered Bill 4 (2009), CD1 entitled:

"A BILL FOR AN ORDINANCE RELATING TO THE USE OF ELECTRONIC DEVICES WHILE OPERATING MOTOR VEHICLES,"

which passed Second Reading at the March 18, 2009 Council meeting, reports as follows:

The purpose of this Bill is to prohibit, with some exceptions, the use of mobile electronic devices while operating a motor vehicle. The CD1 version of the Bill provides that no person shall operate a motor vehicle while using a mobile electronic device. Exempted from this prohibition are emergency responders while in the performance and scope of their official duties, and drivers using two-way radios while in the performance and scope of their work-related duties. In addition, the use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to the prohibition.

Your Committee also considered three CD2 versions of the Bill, two posted versions and one hand-carried version.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON APR 22 2009

COMMITTEE REPORT NO. 129

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Representatives from the Honolulu Police Department and the Department of the Prosecuting Attorney testified in support of the hand-carried CD2 version.

Your Committee vigorously discussed the inherent risks and dangers associated with both cognitive distractions and manual/visual distractions while engaged in driving. Cognitive distractions refer to the mental workload associated with a secondary task, such as talking on a cell phone or to a passenger, while also engaging in the primary task of driving. Visual/manual distractions are those activities that require a driver to look away from the roadway, even briefly, such as reaching for or dialing a cell phone. Visual/manual distractions also include operating a device that is not requisite to the primary task of driving, such as sending or reading a text message.

Your Committee notes that two National Highway Traffic Safety Administration publications (DOT HS 810 594, dated April 2006, and DOT HS 810 704, dated April 2008) provide detailed analysis and findings with respect to the impact of driver inattention. Of particular relevance to your Committee was the 2008 report finding that drivers who took their eyes off the road for more than two seconds doubled their risk of a crash or near crash. Further, drivers engaging in visually and/or manually complex tasks tripled their risk of a crash compared with drivers who are fully attentive.

Your Committee finds that while any form of inattention during the primary task of driving is both risky and dangerous, manual/visual distractions that involve taking ones eyes off the roadway are of particular concern; thus this Bill focuses on the use of hand-held mobile electronic devices while driving.

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Your Committee wishes to note that while the Bill prohibits the use of a mobile electronic device while operating a motor vehicle, which is defined as holding a mobile electronic device while operating a motor vehicle, it does not prohibit the use of devices that operate in a "hands free" or "voice activated" mode. As such, your Committee is of the opinion that a reasonable and affordable alternative to the common and ubiquitous hand held cell phone is readily available to those who require or desire a communication option while driving.

Your Committee also received testimony from several individuals concerning the use of two-ways radios by amateur radio operators licensed by the federal communications commission. As these devices are typically affixed to the vehicle, operate on a half-duplex push-to-talk basis only, and do not require the driver to take his or her eyes off the road in order to dial a number, your Committee is of the belief that such drivers also warrant an exemption from the prohibition.

Based on the testimony presented and subsequent discussion, your Committee has amended the Bill as follows:

- 1) Added as persons exempt from the prohibition, *Drivers holding a valid amateur radio operator license issued by the federal communications commission and using a half-duplex two-way radio.*
- 2) Revised the definition of "Operate a motor vehicle" to read, *"Operate" a motor vehicle means the same as is defined in HRS Section 291E-1.*

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Your Committee on Transportation and Planning is in accord with the intent and purpose of Bill 4 (2009), CD1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as Bill 4 (2009), CD2. (Ayes: Okino, Dela Cruz, Garcia, Tam – 4; Noes: None.)

Respectfully submitted,



Committee Chair

At the 4/22/2009 Council meeting, Bill 4 (2009), CD2 was further amended to a FD1 and passed third reading, as amended, in the form attached hereto as Bill 4(2009), CD2, FD1.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON APR 22 2009

COMMITTEE REPORT NO. 129



A BILL FOR AN ORDINANCE

RELATING TO THE USE OF ELECTRONIC DEVICES WHILE OPERATING MOTOR VEHICLES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to prohibit the use of certain electronic devices while operating a motor vehicle.

SECTION 2. Chapter 15, Article 24, Revised Ordinances of Honolulu 1990, as amended ("Miscellaneous Provisions"), is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 15-24. Mobile electronic devices."

- (a) No person shall operate a motor vehicle while using a mobile electronic device.
- (b) The use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to this ordinance.
- (c) The following persons shall be exempt from the provisions of subsection (a):
 - (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
 - (2) Drivers using two-way radios while in the performance and scope of their work-related duties;
 - (3) Drivers holding a valid amateur radio operator license issued by the federal communications commission and using a half-duplex two-way radio.
- (d) As used in this section:

"Emergency responders" include fire fighters, emergency medical technicians, mobile intensive care technicians, civil defense workers, police officers and federal and state law enforcement officers.

"Mobile electronic device" means any hand-held or other portable electronic equipment capable of providing wireless and/or data communication between two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital



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ORDINANCE _____

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assistant, laptop computer, video game, or digital photographic device, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate" a motor vehicle means the same as is defined in HRS Section 291E-1.

"Use or using" means holding a mobile electronic device while operating a motor vehicle."

SECTION 3. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring.



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CITY AND COUNTY OF HONOLULU
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ORDINANCE _____

BILL 4 (2009), CD2

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SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Rod Tam

Donovan Dela Cruz

DATE OF INTRODUCTION:

January 28, 2009
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

MUFU HANNEMANN, Mayor
City and County of Honolulu



A BILL FOR AN ORDINANCE

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- (a) No person shall operate a motor vehicle while using a mobile electronic device.
- (b) The use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to this ordinance.
- (c) The following persons shall be exempt from the provisions of subsection (a):
 - (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
 - (2) Drivers using two-way radios while in the performance and scope of their work-related duties;
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CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 4 (2009), CD2, FD1

A BILL FOR AN ORDINANCE

SECTION 4. This ordinance shall take effect on July 1, 2009.

INTRODUCED BY:

Rod Tam

Donovan Dela Cruz

DATE OF INTRODUCTION:

January 28, 2009
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

MUFU HANNEMANN, Mayor
City and County of Honolulu